STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: November 15, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000020716

[redacted]

[redacted],

On October 4, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's June 28, 2017 enrollment confirmation notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:

  NY State of Health Appeals
  P.O. Box 11729
  Albany, NY 12211

- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: November 15, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000020716

[redacted]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

> Did NY State of Health (NYSOH) properly determine that the decreased tax credit of $350.00, to which you and your spouse were determined eligible, was effective as of July 1, 2017?

Procedural History

On March 15, 2017, NYSOH issued a notice of eligibility determination stating you and your spouse were eligible to receive up to $464.00 per month in advance payments of the premium tax credit (APTC), effective April 1, 2017.

Also on March 15, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a qualified health plan with the maximum amount of APTC applied to your monthly premium, effective April 1, 2017.

On June 27, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of you and your spouse.

On June 28, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to $350.00 in monthly APTC, effective August 1, 2017.

Also on June 28, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a qualified health plan. That notice indicated that the decreased APTC of $350.00 would be applied, effective July 1, 2017.

On July 3, 2017, NYSOH received another updated application for financial assistance with health insurance submitted on behalf of you and your spouse.

On July 4, 2017, NYSOH issued an eligibility determination notice stating you and your spouse were eligible to receive up to $487.00 in monthly APTC, effective August 1, 2017.

On July 14, 2017, NYSOH issued an enrollment notice confirming you and your spouse were enrolled in a qualified health plan. That notice indicated that the increased APTC of $487.00 would be applied, effective August 1, 2017.

On July 22, 2017, 2017, you spoke to NYSOH's Account Review Unit and appealed the amount of APTC applied for the month of July 2017.

On October 4, 2017, your spouse had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

1) NYSOH received an initial application for financial assistance with health insurance submitted on behalf of you and your spouse on March 14, 2017. That application listed your annual household income as $57,500.00.

2) NYSOH determined you and your spouse eligible to receive up to $464.00 in APTC. You and your spouse enrolled in a qualified health, effective April 1, 2017, plan with the maximum amount of APTC applied. After APTC was deducted your monthly premium was $585.54.

3) On June 27, 2017, NYSOH received an updated application submitted on behalf of you and your spouse. That application indicated your spouse was pregnant and increased your annual expected household income to $69,000.00.

4) Your spouse testified that she contacted NYSOH on June 27, 2017 to report her pregnancy and gave an estimate of your income which turned out to be inaccurate.

5) Following the June 27, 2017 application, NYSOH determined you and your spouse eligible to receive a decreased APTC of $350.00 monthly, effective August 1, 2017.

6) The enrollment confirmation notice issued by NYSOH on June 28, 2017 indicated that the decreased APTC would be applied effective July 1, 2017 and your new monthly premium payment would be $699.54.

7) Your account confirms that NYSOH received another updated application submitted on behalf of you and your spouse on July 3, 2017. That application decreased your household income to $55,900.00.

8) Your spouse testified that the income information reported in the July 3, 2017 application was based on your paystubs and was accurate.

9) Following the July 3, 2017 application, NYSOH determined you and your spouse eligible to receive an increased APTC of $487.00 monthly.

10) The enrollment confirmation notice issued by NYSOH on July 14, 2017 indicated that the increased APTC would be applied, effective August 1, 2017 and your new monthly premium payment would be $562.54.

11) Your spouse testified that your July 2017 premium payment increased by approximately $114.00.

12) Your spouse testified that you were appealing the amount of APTC applied for the month of July 2017.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Verification of Eligibility for Advance Payments of the Premium Tax Credit

APTC are generally available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (*see* 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

An applicant is required to attest to their household's projected annual income for purposes of determining their eligibility for APTC (45 CFR § 155.320(c)(3)(ii)(B)). For all individual's whose household income is needed, NYSOH must request tax

return data from the Secretary of the Treasury and data regarding Social Security benefits from the Commissioner of Social Security to confirm that the information the applicant is attesting to is accurate (45 CFR § 155.320(c)(1)(i); 45 CFR § 155.320(c)(3)(ii)(A)).

Effective Dates of Eligibility Redeterminations for Advance Payments of the Premium Tax Credit

Upon making an eligibility redetermination, NYSOH must notify the applicant, and it must implement any decreases in eligibility to receive APTC effective as of the first day of the month following the date of the notice if the change occurs on or before the 15th of the month; otherwise, the change becomes effective the first day of the second following month (45 CFR § 155.310(f), 45 CFR § 155.330(f)(1)(i) and (f)(3)). Increases become effective the first day of the following month, regardless of when during the month the change occurs (*id.*).

Legal Analysis

The issue under review is whether NYSOH properly determined that the decreased tax credit of $350.00, to which you and your spouse were determined eligible, was applied as of July 1, 2017.

Your account confirms that you and your spouse enrolled in a qualified health plan, effective April 1, 2017, with $464.00 in APTC applied. Your monthly premium for that plan was $585.54.

Your spouse testified that on June 27, 2017, she contacted NYSOH to report her pregnancy. That day an updated application was submitted on behalf of you and your spouse increasing your attested annual household income from $57,500.00 to $69,000.00. Although your spouse testified that she just gave an estimate of your income that day that turned out to be inaccurate, the subsequent eligibility determination relied upon the income information reported in that application.

Based upon the reported increase in annual income of $69,000.00, NYSOH redetermined the eligibility of you and your spouse and found you eligible for a decreased APTC of $350.00 monthly. The enrollment confirmation notice issued by NYSOH on June 28, 2017 indicated that the decreased APTC would be applied, effective July 1, 2017, and your new monthly premium payment would be $699.54.

However, pursuant to the above cited regulations, upon a redetermination of eligibility for APTC, any decreases in APTC are to be made effective the first day of the month following the eligibility redetermination notice only if the change in eligibility occurs on or before the 15th of the month. Otherwise, the decrease is to be applied on the first day of the second following month. Since the June 28,

2017 eligibility redetermination notice, indicating you and your spouse were eligible to receive a decreased APTC of $350.00, was issued after the fifteenth day of the month, the decrease in your APTC should not have gone into effect until the first day of the second following month; that is, on August 1, 2017.

Accordingly, the June 28, 2017 enrollment confirmation notice stating the decreased APTC of $350.00 would be applied, effective July 1, 2017 is MODIFIED to reflect the decreased amount of APTC was to be applied no earlier than August 1, 2017.

Your account confirms that your application was updated on July 3, 2017 and, as a result, you and your spouse were determined eligible for an increased APTC of $487.00. The July 14, 2017 enrollment confirmation notice confirms that the increased APTC amount was properly applied the first day of the next following month, on August 1, 2017, in accordance with the regulations. This superseded the previous eligibility determination. Thus, the $350.00 amount of decreased APTC should never have been applied to your monthly premium.

As such, your case is returned to NYSOH to reinstate your previous APTC amount of $464.00 for the month of July 2017.

Decision

The June 28, 2017 enrollment confirmation notice is MODIFIED to reflect the decreased amount of APTC was to be applied no earlier than August 1, 2017.

Your case is RETURNED to NYSOH to reinstate your previous APTC amount of $464.00 for the month of July 2017.

Effective Date of this Decision: November 15, 2017

How this Decision Affects Your Eligibility

Your APTC should not have been decreased for the month of July 2017.

Your case will be returned to NYSOH to ensure that your previous APTC amount of $464.00 is reinstated for the month of July 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

  Health Insurance Marketplace
  Attn: Appeals
  465 Industrial Blvd.
  London, KY 40750-0061

- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

  NY State of Health Appeals
  P.O. Box 11729

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The June 28, 2017 enrollment confirmation notice is MODIFIED to reflect the decreased amount of APTC was to be applied no earlier than August 1, 2017.

Your case is RETURNED to NYSOH to reinstate your previous APTC amount of $464.00 for the month of July 2017.

Your APTC should not have been decreased for the month of July 2017.

Your case will be returned to NYSOH to ensure that your previous APTC amount of $464.00 is reinstated for the month of July 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。 如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

বাংলা **(Bengali)**

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी **(Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 **(Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली **(Nepali)**

यो एउटा महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Twi (Twi)

Krataa yi yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

(Yiddish) אידיש

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777.
מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).